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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,509	12/06/2001	John Severn	BTW-037	8010
959	7590	03/30/2004	EXAMINER	
LAHIVE & COCKFIELD, LLP. 28 STATE STREET BOSTON, MA 02109			ALLEN, STEPHONE B	
			ART UNIT	PAPER NUMBER
			2878	

DATE MAILED: 03/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/006,509	Applicant(s) SEVERN, JOHN	
	Examiner Stephone B. Allen	Art Unit 2878	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Applicant's attention is directed to the second claim 14 and claim 15. According to Rule 1.26 the claims have been renumber claims 15 and 16 respectively.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 3,878,105 to Palmer.

Since no structural limitations are provided for the “in-beam monitoring” or “fiber power monitoring” of “optical transmitter unit”, such limitations will be treated as intended use and are afforded no patentable weight.

Palmer discloses a photodetector device wherein the device absorbs a portion of the energy beam while allowing the remainder of the energy of the beam to pass through (col.2, lines 19-33; and col.3, line 20 – col. 4, line 3).

Claims 1, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,452,669 to Morris, Jr. et al. (Morris).

Since no structural limitations are provided for the "in-beam monitoring" or "fiber power monitoring" of "optical transmitter unit", such limitations will be treated as intended use and are afforded no patentable weight.

Morris discloses a photodetector device wherein the device absorbs a portion of the energy beam while allowing the remainder of the energy of the beam to pass through (Abstract).

Claims 1-3, 12 -15 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 4,292,512 to Miller et al. (Miller).

With respect to claims 1-3 and 12, Miller discloses a photodetector device for in-beam monitoring of a light beam wherein the device absorbs a portion of the energy beam while allowing the remainder of the energy of the beam to pass through Miller discloses that the photodetector comprise a photodiode (PD). Miller also discloses an absorbing layer that produces an output signal dependent on the intensity of the light beam passing through the device (col.2, line 63 – col. 3, line 49).

With respect to claims 13 and 14, since no structural limitations are provided for the "fiber power monitoring" of "optical transmitter unit", such limitations will be treated as intended use and are afforded no patentable weight.

With respect to claim 15, the method is inherent to the device claimed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2878

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-11 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller et al. (Miller).

With respect to claims 4 and 5, Miller fails to disclose that the absorbing layer comprises InGaAsP and further a diffused p-type region. However, it is well known in the semiconductor technology to use InGaAsP as an absorption layer because of its light absorbing properties and enhance reception with a diffusion region. Therefore, it would have been obvious for one of ordinary skill in the art to modify the detector of Miller to include a layer as claimed.

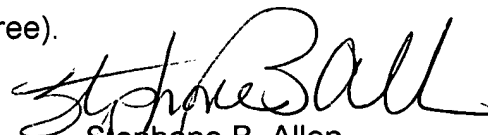
With respect to claims 6 and 8, Miller fails to disclose the exact contact/ substrate arrangement as claimed. However, Miller, (col. 5, lines 12-21) discloses that the geometry of the photodiode can take on a number of arrangements or forms. Therefore, the exact contact/substrate arrangement with respect to the absorbing layer would have been an obvious design modification.

With respect to claims 9 –11 and 16, Miller fails to disclose the exact specifics of the absorbing layer. However if it were found that a leakage of the light in undesired regions of the detector, it would have been obvious for one of ordinary skill in the art to modify the device accordingly, since such would require routine skill in the semiconductor technology.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephone B. Allen whose telephone number is (571) 272-2434. The examiner can normally be reached on Mon-Thurs from 0900-1700.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave P. Porta can be reached on (571) 272-2444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Stephone B. Allen
Primary Examiner
Art Unit 2878

sba